

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-MV/LFG

RIO CHAMA STREAM SYSTEM
Section 7, Village of Chama

Ranch 101 Ditch

**MOTION BY THE STATE OF NEW MEXICO
TO REVISE SUBFILE ORDERS
ASSOCIATED WITH THE RANCH 101 DITCH**

The plaintiff State of New Mexico, *ex rel.* State Engineer (“State”) moves the Court to revise all subfile orders entered in the Village of Chama subsection describing irrigation water rights under the Ranch 101 Ditch, and in support states the following:

1. OSE License 1241 and permits issued thereafter recognize that the water users under the Ranch 101 Ditch may divert water for irrigation of their lands from two points of diversion on the Rio Chama. These diversions have been described as the original “Diversion A” and the secondary “Diversion B” in the records of the State Engineer. *See* OSE Application No. 1241 filed January 29, 1960 (Map of the Ranch 101 Ditch, A & B Diversions).

2. The hydrographic survey of the Village of Chama incorporated this information and described the source of water and points of diversion for tracts of land under the Ranch 101 Ditch as either the “Ranch 101 Ditch” (corresponding to the original point of diversion) or the “Ranch 101 Ditch B” (corresponding to the secondary point of diversion). Subfile orders entered for the water rights

under this ditch also used these same descriptions. *See* Consent Order entered on November 22, 2006 (Doc. 8478). This usage could be interpreted to imply that there is more than a single Ranch 101 Ditch rather than a single ditch system with alternate or multiple points of diversion on the Rio Chama for most of the tracts involved (not all of the tracts under the Ranch 101 Ditch can be irrigated from the secondary point of diversion).

3. In order to avoid possible confusion on the nature of the M-B Ditch and the alternate points of diversion of surface water for the irrigation of the lands under that ditch, the subfile orders entered in the Village of Chama subsection describing irrigation water rights under the Ranch 101 should be revised as follows:

Subfile CHCV-007-0002A – Alfred Unser – Consent Order filed January 25, 2005 (Doc. 7718). The description of the point of diversion in subsection A of the Consent Order entered on January 25, 2005 in Subfile CHCV-007-0002A should be revised as follows:

Point of Diversion:

Ditch: RANCH 101 DITCH

Diversion A: Rio Chama
Location X = 1,544,358 feet **Y** = 2,126,566 feet

New Mexico Plane Coordinate System, Central Zone, NAD 1983

Subfile CHCV-007-0002B – Tuoraey, LLC – Consent Order filed May 26, 2009 (Doc. 9455).

The description of the point of diversion in subsection A of the Consent Order entered on May 26, 2009 in Subfile CHCV-007-0002B should be revised as follows:

Point of Diversion:

Ditch: RANCH 101 DITCH

Diversion A: Rio Chama

Location X = 1,544,358 feet **Y** = 2,126,566 feet

New Mexico Plane Coordinate System, Central Zone, NAD 1983

Subfile CHCV-007-0003 – Kevin Yearout, Lian Yearout – Consent Order filed April 17,

2007 (Doc. 8618). The description of the point of diversion in Subsection A of the Consent Order entered on April 17, 2007 in Subfile CHCV-007-0003 should be revised as follows:

Point of Diversion:

Ditch: RANCH 101 DITCH

Diversion A: Rio Chama

Location X = 1,544,358 feet **Y** = 2,126,566 feet

New Mexico Plane Coordinate System, Central Zone, NAD 1983.

The description of the point of the source of water and point of diversion in Subsection B of the Consent Order entered on April 17, 2007 in Subfile CHCV-007-0003 (Doc. 8618) should be revised as follows:

Source of Water: Surface water of the Rio Chama.

Point of Diversion:

Ditch: RANCH 101 DITCH

Diversion A: Rio Chama

Location X = 1,544,358 feet **Y** = 2,126,566 feet

Diversion B: Rio Chama

Location X = 1,546,127 feet **Y** = 2,124,052 feet

New Mexico Plane Coordinate System, Central Zone, NAD 1983

Subfile CHCV-007-0004 – Lawrence Family, LLC – Consent Order filed May 18, 2005

(Doc. 7899). The description of the source of water and point of diversion in subsection A of the

Consent Order entered on May 18, 2005 in Subfile CHCV-007-0004 should be revised as follows:

Source of Water: Surface water of the Rio Chama.

Point of Diversion:

Ditch: RANCH 101 DITCH

Diversion A: Rio Chama

Location X = 1,544,358 feet **Y** = 2,126,566 feet

Diversion B: Rio Chama

Location X = 1,546,127 feet **Y** = 2,124,052 feet

New Mexico Plane Coordinate System, Central Zone, NAD 1983

Subfile CHCV-007-0005 – Daniel D. Shoats, Ellen J. Shoats – Consent Order filed

December 12, 2003 (Doc. 7335). The description of the source of water and point of diversion in subsection A of the Consent Order entered on December 12, 2003 in Subfile CHCV-007-0005 should be revised as follows:

Source of Water: Surface water of the Rio Chama.

Point of Diversion:

Ditch: RANCH 101 DITCH

Diversion A: Rio Chama

Location X = 1,544,358 feet **Y** = 2,126,566 feet

Diversion B: Rio Chama

Location X = 1,546,127 feet **Y** = 2,124,052 feet

New Mexico Plane Coordinate System, Central Zone, NAD 1983

Subfile CHCV-007-0006 – Patricia Serna, Richard M. Serna – Consent Order filed

November 22, 2006 (Doc. 8478). The description of the source of water and point of diversion in subsection A of the Consent Order entered on November 22, 2003 in Subfile CHCV-007-0006 should

be revised as follows:

Source of Water: Surface water of the Rio Chama.

Point of Diversion:

Ditch: RANCH 101 DITCH

Diversion A: Rio Chama

Location X = 1,544,358 feet **Y** = 2,126,566 feet

Diversion B: Rio Chama

Location X = 1,546,127 feet **Y** = 2,124,052 feet

New Mexico Plane Coordinate System, Central Zone, NAD 1983

Subfile CHCV-007-0007 – Jicarilla Apache Nation – Consent Order filed September 3, 2008

(Doc. 9273). The description of the source of water and point of diversion in subsection A of the Consent Order entered on September 3, 2008 in Subfile CHCV-007-0007 should be revised as follows:

Source of Water: Surface water of the Rio Chama.

Point of Diversion:

Ditch: RANCH 101 DITCH

Diversion A: Rio Chama

Location X = 1,544,358 feet **Y** = 2,126,566 feet

Diversion B: Rio Chama

Location X = 1,546,127 feet **Y** = 2,124,052 feet

New Mexico Plane Coordinate System, Central Zone, NAD 1983

4. The subfile maps attached hereto as Exhibits 1 through 3 should be substituted for the corresponding maps attached to the Consent Orders filed with the Court in Subfiles CHCV-007-0003, CHCV-007-0004 and CHCV-007-0007 in order to delete any reference to “Ranch 101 Ditch ‘B’” on individual subfile maps.

WHEREFORE, the State requests the Court to enter its Order to revise the subfile orders entered in the Village of Chama subsection describing irrigation water rights under the Ranch 101 Diitch as described in paragraph 3 above, and to substitute the attached subfile maps for the ones attached to the Consent Orders filed with the Court in Subfiles CHCV-007-0003, CHCV-007-0004 and CHCV-007-0007. A proposed form of Order that grants this Motion, and individual subfile maps to be attached to that Order, are attached hereto as Exhibits 1 through 4.

Pursuant to the Court's February 4, 2013 *Order* (Doc. 10891), the State requests the Clerk of the Court to mail copies of the approved Order requested in this Motion to the *pro se* parties listed below at the addresses listed.

Respectfully submitted,

/s/ Ed Newville
EDWARD G. NEWVILLE
Special Assistant Attorney General
Office of State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 867-7444

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of May, 2013, I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served by electronic mail, and served the following non-CM-ECF participants in the manner indicated:

via first class mail, postage prepaid addressed as follows:

CHCV-007-0002A
Alfred Unser
7625 Central NW
Albuquerque, NM 87121

Subfile CHCV-007-0002B

Tuoraey, LLC
c/o Kevin Yearout
10208 San Bernardino, NE
Albuquerque, NM 87122

Subfile CHCV-007-0003

Kevin Yearout
Lian Yearout
10208 San Bernardino, NE
Albuquerque, NM 87122

CHCV-007-0004

Lawrence Family, LLC
B. W. Lawrence
9522 Pebble Beach NE
Albuquerque, NM 87111

CHCV-007-0005

Daniel D. Shoats
Ellen J. Shoats
9627 4th St., NW
Albuquerque, NM 87114

CHCV-007-0006

Patricia Serna
Richard M. Serna
P.O. Box 843
Chama, NM 87520

/s/ Ed Newville
EDWARD G. NEWVILLE